

DOCKET NO.: IVOO-0144
Application No.: 09/684,442
Office Action Dated: September 29, 2005

PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

**Charles Eric Hunter, Bernard L. Ballou,
Jr., Kelly C. Sparks, and John H.
Hebrank**

Confirmation No.: 2729

Application No.: 09/684,442

Group Art Unit: 3621

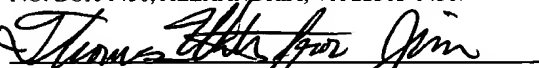

Filing Date: October 6, 2000

Examiner: Pierre E. Elisca

For: **MUSIC DISTRIBUTION SYSTEMS**

DATE OF DEPOSIT: December

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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets. No more than five pages are provided.

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REMARKS – REASON FOR REVIEW

Claims 38-67 are pending in the present application with Claims 38, 56, and 64 being the independent claims. Claims 38-67 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kleiman (U.S. Pat. No. 5,959,945) and Looney et al. (U.S. Pat. No. 5,969,283) in view of Downs et al. (U.S. Pat. No. 6,226,618).

Review of the outstanding rejections to the claims is respectfully requested in view of the following remarks.

The Examiner issued a rejection under 35 U.S.C. § 103(a) adding an additional reference (Downs et al.) arguing that it includes the limitations added in the previous amendment, which it clearly does not. Downs et al. merely uses pricing information to track balances of users at a clearinghouse when they purchase music, not for verification when a pre-selected music item has actually been recorded at a consumer location (see Col. 11, lines 1-8). The remaining claims either depend directly or indirectly from claim 38 or were rejected under the same rationale. Thus, Applicants submit that all the limitations of these claims are not taught or suggested by the references cited for at least the same reasons presented above. Therefore, Applicants submit that claims 38-67 of the application are in condition for allowance.

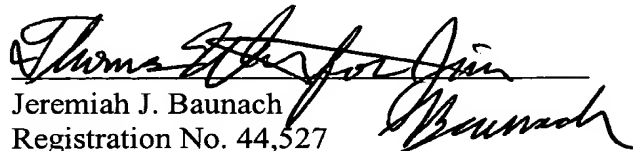
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CONCLUSION

Applicants believe that the remarks above are responsive to each point raised by the Examiner in the Office Action and Applicants submit that claims 38-67 of the application are in condition for allowance. Should the Examiner have any questions, comments, or suggestions that would expedite the prosecution of the present case to allowance, Applicants' undersigned representative would very much appreciate a telephone conference to discuss these issues.

Date: December 29, 2005


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